

## REMARKS

This Amendment and Response to Office Action is made in response to the examiner's final office action dated February 3, 2005. No new matter is added by these amendments.

The examiner's comments have been carefully considered, and are addressed in turn in the following paragraphs.

### Objection to Disclosure under 37 CFR 1.163

The specification has been objected to as failing to provide a full and complete disclosure of the plant and its distinguishing characteristics. By the foregoing amendment, Applicant has provided additional information to more fully describe the claimed plant, and to more clearly distinguish it from other known cultivars. The following paragraphs correspond with the examiner's specific comments.

A. Comparison to Parents: The claimed variety is the result of a complex cross between [(KIANG-SI x INDEPENDENCE) x SUMMERGRAND] x MARSUN. The specification has been amended to briefly describe how the claimed plant differs from its parents. Because the female parent was itself a complex cross, no comparisons were made between the claimed variety and 'Kiang-Si,' 'Independence,' or Summergrand.'

B. Stipules: Additional description of the stipules is not presently available. Therefore, the specification has not been amended in this regard.

C. Branch color: The specification has been amended to provide additional botanical information regarding the branch anthocyanin, as requested by the examiner.

D. Glands: Additional description of the glands is not presently available. Therefore, the specification has not been amended in this regard.

E. Pit cavity: The specification has been amended to provide additional botanical information regarding the pit cavity, as requested by the examiner.

F. Stone: The specification as previously amended contained description of the stone. Because the stone is substantially round, only a diameter is given. The length and width are equivalent to the diameter. Again, because the stone is substantially round, the apex and base of the stone are somewhat non-descript. The surface texture of the stone is ridged, as described in the specification. The specification is amended to clarify that the word “ridged” refers to the texture of the stone.

G. Kernel: Due to seasonal limitations, information regarding the fruit kernel is not presently available. The kernel is not a distinguishing characteristic of the claimed plant. Applicant therefore respectfully requests that the requirement for botanical information regarding the kernel be waived.

H. Trunk: The specification has been amended to correct the color designation at page 3, line 17, as requested by the examiner.

#### Claim Rejection under 35 U.S.C. §112

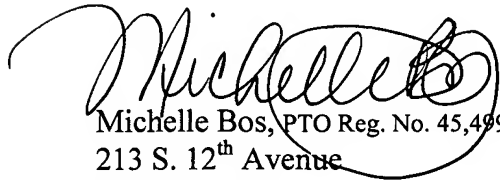
By the foregoing amendment, Applicant has provided the botanical information specifically requested by the examiner to describe the claimed variety. Applicant believes that the rejection under 35 U.S.C. §112 has been overcome.

### **CONCLUSION**

In light of the foregoing amendment and remarks, applicant believes that this application is now in condition for allowance. Such action is respectfully requested.

Respectfully Submitted,

STRATTON BALLEW PLLC

A handwritten signature in black ink, appearing to read "Michelle Bos", is written over the printed name and address. The signature is fluid and cursive, with a large loop at the end.

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